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# ***JPRS Report***

## **Soviet Union**

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### ***Political Affairs***

**USSR Government Passes Resolution  
on State Arbitration**

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# **Soviet Union**

## **Political Affairs**

### **USSR GOVERNMENT PASSES RESOLUTION ON STATE ARBITRATION**

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**USSR Government Passes Resolution on State Arbitration**

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[Text]

**Decree of the USSR Council of Ministers on Ratification of the Statute on the USSR State Arbitration Commission and the Rules for Hearing Economic Disputes by State Arbitration Commissions**

The USSR Council of Ministers decrees:

1. The proposed Statute on the USSR State Arbitration Commission is ratified.

The Councils of Ministers of the Union republics, in agreement with the USSR State Arbitration Commission, are to ratify statutes on state arbitration organs in the Union republics.

2. To the Rules for Hearing Economic Disputes by State Arbitration Commissions are added the amendments and additions ratified by Decree No 440 of the USSR Council of Ministers dated 5 June 1980 (SP SSSR, 1980, No 16-17, Article 104), presenting these Rules in their new edition (attached).

3. The following are declared no longer in effect:

—Decree No 646 of the USSR Council of Ministers, dated 7 August 1970 and entitled "Enhancing the Role of State Arbitration Commissions and Arbitration Commissions of Ministries and Departments in the National Economy" (SP SSSR, 1970, No 15, Article 122), with the exception of Points 1 and 2 in the part relating to the arbitration commissions of ministries and departments;

—Point 6 of decree No 60 of the USSR Council of Ministries, dated 17 January 1974 and entitled "Further Improvement of the Organization and Activity of State Arbitration Organs";

—Table 22 of Appendix No 1 to Decree No 1059 of the CPSU Central Committee, USSR Council of Ministries and AUCCTU, dated 24 December 1976 and entitled "Raising the Minimum Wage of Workers and

Employees With a Simultaneous Increase in the Position Salaries and Wage Rates of Average-Paid Categories of Persons Working in the Apparatuses of Republic (ASSR) and Local Organs of State Administration, Economic Organizations, the Court, the Procuracy, Credit Institutions, and State Insurance Organs."

—Table 7 of Appendix No 1 and Table 8 of Appendix No 2 to Decree No 1060 of the CPSU Central Committee, USSR Council of Ministers, and AUCCTU, dated 24 December 1976;

—Point 2 of Decree No 440 of the USSR Council of Ministers, dated 5 June 1980 and entitled "Ratification of the Rules for Hearing Economic Disputes by State Arbitration Commissions and the Statute on the State Arbitration Commission of the USSR Council of Ministers" (SP SSSR, 1980, No 16-17, Article 104), and also Point 1 of this decree in the part that ratifies the Statute on the State Arbitration Commission of the USSR Council of Ministers.

N. Ryzhkov, chairman of the USSR Council of Ministers.

M. Smirtyukov, charge d'affairs of the USSR Council of Ministers.

Moscow, the Kremlin, 16 April 1988, No. 490

Ratified by Decree No. 490 of the USSR Council of Ministers, dated 16 April 1988

**Statute on the USSR State Arbitration Commission**

1. In conformity with the USSR Law on State Arbitration in the USSR, the USSR State Arbitration Commission is a USSR-republic organ of the USSR. The USSR State Arbitration Commission and the state arbitration commissions of the Union and autonomous republics, krays, oblasts, cities, autonomous oblasts, and autonomous okrugs constitute a single system of state arbitration organs in the USSR.

The USSR State Arbitration Commission carries out its activities under the direction of the USSR Supreme Soviet and its Presidium and is responsible for the organization, condition, and improvement of activity by all state arbitration organs.

The work of the USSR State Arbitration Commission to carry out its functions related to monitoring compliance with contract discipline in the national economy and preventing violations of legality in economic relations, development of proposals on refining legal regulations of economic activity, and with monitoring the activity of other organs that resolve economic disputes and instructing them, is directed by the USSR Council of Ministers.

The primary tasks of the USSR State Arbitration Commission are as follows:

- managing state arbitration organs;
- ensuring uniform and correct application of the law by state arbitration commissions, arbitration commission of ministries, state committees, and departments, and other organs when resolving economic disputes;
- ensuring protection of the rights and legally protected interests of enterprises, institutions, and organizations based on consistent implementation of the principles of the USSR Law on the State Enterprise (Association) and other legislative enactments on fundamental restructuring of management of the economy;
- actively influencing enterprises, institutions, organizations, their higher-ranking organs (ministries, state committees, departments, or other higher-ranking organs), and officials to ensure their compliance with socialist legality, state discipline in the national economy, and unconditional fulfillment of planned assignments and contracts obligations;
- developing proposals and taking steps to improve legal regulation of economic activity.

### 3. The USSR State Arbitration Commission:

a) makes all possible use of its legal means and the powers granted to it to strengthen protection of socialist property and cost accounting, increase the role of the contract, develop the principles of self-financing and cost recovery, rational economic links, and cooperation among enterprises, institutions, and organizations, intensify economy measures and the fight against losses in the national economy and manifestations of localism and departmentalism in economic activity, promoting dynamic, planned, and proportional growth of the socialist economy, scientific-technical progress, a rise in the efficiency of public production and the quality of work, and implementation of the party line of accelerating the country's socioeconomic development;

### b) directs the work of state arbitration organs;

—to ensuring defense of the rights and legally protected interests of enterprises, institutions, and organizations, timely hearing of economic disputes, uniform and correct application of the law when resolving these disputes, identification of normative enactments of ministries, state committees and departments that conflict with the law on questions of concluding and performing economic contracts, all possible assistance in improving contract and claim work in the national economy, preventing violations of legality and state disciplines and shortcomings in economic activity, and striving to eliminate the causes and conditions that promote legal offenses in the economy;

—to broadening ties with the labor collectives of enterprises, institutions, and organizations in order to strengthen the fight against failure to perform contract obligations, and improper presentation of disputes for arbitration, increasing the accountability of officials in this matter, and to see that parties at fault compensate for the material damage caused by violations of legality in economic activity;

—to perform other tasks envisioned by law.

4. The USSR State Arbitration Commission manages all state arbitration organs, usually through the state arbitration commissions of the Union republics.

5. In its activity the USSR State Arbitration Commission is guided by the USSR Constitution, the laws of the USSR, other decisions of the USSR Supreme Soviet and its Presidium, the decrees and orders of the USSR Council of Ministers, other legislative enactments, and also the present statute.

### 6. The USSR State Arbitration Commission:

a) develops and implements measures toward performance of Party and Government decisions by state arbitration organs;

b) hears the most important economic disputes in conformity with established jurisdictions;

c) reviews, in the manner established by law, petitions of state enterprises (associations) and organizations to declare partially or completely inoperative enactments of higher-ranking organs of enterprises (associations) and organizations that involve the rights and legally protected interests of these enterprises (associations) and organizations which are outside the jurisdiction of these organs or are issued in violation of the requirements of law;

d) exercises supervision, in the established manner, over the legality of the decisions of state arbitration commissions;

e) issues, within the limits of its jurisdiction, instructional orders that are mandatory for arbitration organs, ministries, state committees, departments, enterprises, institutions, and organizations on questions of the application of laws of the USSR in resolving economic disputes and their pre-arbitration settlement, and also in the conduct of contract work at enterprises, institutions, and organizations;

f) suspends the operation of normative enactments of the state arbitration commissions of the Union republics where they do not correspond to USSR law, and sets aside or modifies instructional orders of the state arbitrations commission of the Union republics where they do not correspond to the instructional orders of the USSR State Arbitration Commission;

g) systematically checks on the activity of state arbitration organs, hears reports by the state arbitration commissions of the Union republics, and where necessary the commissions of the autonomous republics, krais, oblasts, cities, autonomous oblasts, and autonomous okrugs;

h) takes steps to improve the work style and methods of state arbitration organs and improve their cooperation with other law-enforcing and monitoring organs; studies, summarizes, and disseminates useful work know-how of state arbitration organs;

i) studies and summarizes practices in applying the law in resolving economic disputes, during pre-arbitration settlement of such disputes, and also in conducting contract work, and on this basis develops and, by established procedures, submits proposals to improve legal regulation of economic activity and the activity of state arbitration organs, the arbitration commission of ministries, state committees, and departments, and other organs that resolve economic disputes;

j) within the system of state arbitration organs, organizes work on the selection and placement of personnel, establishing a personnel reserve, indoctrinating personnel in a spirit of high standards and accountability for irreproachable performance of service duty, supports retraining and advanced study by personnel, creates conditions for optimal use of their knowledge and experience, and promotes politically mature and proven specialists to management work; promotes the establishment of proper working and living conditions for people working at state arbitration organs, and in agreement with the Councils of Ministers of Union republics ratifies model workload norms for them;

k) organizes work on keeping arbitration statistics and instructs state arbitration organs in questions of keeping statistical records;

l) organizes measures related to conducting scientific research work on legal problems of the activity of state arbitrations organs, bolstering their influence on raising the efficiency of public production and the quality of work, and ensures practical introduction of the results of this scientific research work;

m) maintains international ties with state arbitration organs of the socialist countries in the established manner.

The USSR State Arbitration Commission performs the tasks given to it without allowing intervention in the operational activity of ministries, state committees, departments, enterprises, institutions, and organizations.

7. The USSR State Arbitration Commission monitors observance of contract discipline in the national economy and observance of the rules of pre-arbitration settlement of economic disputes.

For these purposes the USSR State Arbitration Commission:

—at enterprises, institutions, and organizations checks on compliance with the requirements of the law concerning questions of the conclusion of contracts, performance of obligations, application of property penalties for violations, and pre-arbitration settlement of disputes; and at the ministries, state committees, and departments checks on practices on organizing and managing this work, receives from the ministries, state committees, departments, enterprises, institutions, and organizations regular report data on conclusion and performance of contracts, hears reports by officials of ministries, state committees, departments, enterprises, institutions, and organizations on steps taken to eliminate violations of the law in work on conclusion of contracts and performance of obligations;

—gives managers and other officials of enterprises, institutions, and organizations mandatory orders to eliminate violations of the law on procedures for concluding contracts and pre-arbitration settlement of disputes, and also on reviewing questions of holding persons at fault to material accountability by the established procedure for loss caused in connection with violations of legality in economic activity which are identified by state arbitration commissions;

—defines the procedures by which state arbitration organs exercise their functions to monitor compliance with contract discipline in the national economy and the rules of pre-arbitration settlement of economic disputes.

The USSR State Arbitration Commission jointly with USSR ministries, state committees, and departments that carry out functions of intersectorial management, develops and publishes instruction on questions of organizing work to conclude economic contracts.

8. For purposes of preventing violations of legality and state discipline and avoiding shortcomings in economic activity, the USSR State Arbitration Commission:

—reviews economic disputes of great social significance right at the enterprises, institutions, organizations, and their higher-ranking organs;

—carries on propaganda for economic law;

—works out proposals to prevent and eliminate violations of legality, violations of state disciplines, and shortcomings in the economic activity of enterprises, institutions, and organizations, and also proposals to identify and eliminate the causes of violations and shortcomings, and submits these proposals by the established procedures for review by the USSR Council of Ministers, USSR ministries, state committees, and departments, and the Councils of Ministers of the Union Republics;

- together with the ministries, state committees, departments, enterprises, institutions, and organizations, reviews questions involved in developing measures to prevent and also to eliminate violations of legality and shortcomings in economic activity that are identified by state arbitration tribunals;
- by the established procedure sends enterprises, institutions, organizations, and their higher-ranking organs and officials reports on violations of legality, violations of state discipline, and shortcomings in economic activity which are identified along with proposals on eliminating them, holding the persons at fault accountable, and reimbursing the material loss caused by them;
- organizes the work of state arbitrations organs to prevent violations of legality, violations of state discipline, and shortcomings in economic activity and work to identify to causes of these violations and shortcomings.

The managers of enterprises, institutions, and organizations and of their higher-ranking organs, when they have received a report of the USSR State Arbitration Commission, are obligated to take steps to eliminate the shortcomings noted in the report and notify the USSR State Arbitration Commission of the steps taken within one month after receiving the report.

In necessary cases reports of violations of legality, violations of state discipline, and shortcomings in economic activity that are identified are sent to organs of the procuracy, internal affairs, and other competent organs for review of the question of holding the persons at fault accountable.

The USSR State Arbitration Commission reports the most serious violations of legality, violations of state discipline, and shortcomings in economic activity permitted by ministries, state committees, departments, enterprises, institutions, and organizations to the USSR Council of Ministries.

The USSR State Arbitration Commission coordinates its activities to prevent violations of legality with the activities of the USSR Procuracy, the USSR Ministry of Justice, the USSR Ministry of Internal Affairs, the USSR Supreme Court, the USSR Peoples Control Committee, and other state organs.

9. For purposes of monitoring the activity of the arbitration commissions of ministries, state committees, departments, and other organs that resolve economic disputes, the USSR State Arbitration Commission:

- checks the work of the arbitration commissions of ministries, state committees, departments, and other organs that resolve economic disputes, instructs them in questions of the organization and practice of reviewing such disputes, and gives instructions on improving this work;
- gives the arbitration commissions of ministries, state committees, departments, and other organs that resolve economic disputes mandatory orders to eliminate violations of the law which were permitted during resolution of economic disputes and found during the checks;
- defines the procedures by which state arbitration organs carry out their functions to monitor the activity of the arbitration commissions of ministries, state committees, departments, and other organs that resolve economic disputes and their functions of giving them instructions.

10. The mandatory orders of the USSR State Arbitration Commission envisioned in Points 7 and 9 of the present Statue are subject to performance within 10 days with a report to the USSR State Arbitration Commission on the results.

The USSR State Arbitration Commission has the right to recall the order of a lower-ranking state arbitration organ on its own initiative.

11. The USSR State Arbitration Commission, in cases envisioned by USSR law or on commission from the USSR Council of Ministries:

- ratifies normative enactments that are mandatory for ministries, state committees, departments, and their subordinate enterprises, institutions, and organizations and which regulate economic activity; ratifies procedures for review of economic disputes by arbitration tribunals and organs of the systems of ministries, state committees, and departments; reviews drafts of normative enactments regulating economic activity that are submitted for approval;
- gives ministries, state committees, and departments explanations on the application of decisions of the USSR Council of Ministers that regulate economic activity.

When it identifies normative enactments of the higher-ranking organs of enterprises, institutions, and organizations on questions on conclusion and performance of economic contracts and the enactments are not in conformity with the law, the USSR State Arbitration Commission puts before the organ that ratified the enactments the question of bringing them into conformity with the law. This organ is obligated within 1 month to review the question and report its decision to the USSR State Arbitration Commission.

12. In necessary cases the USSR State Arbitration Commission issues joint enactments within the limits of the appropriate jurisdiction together with USSR ministries, state committees, and departments.

13. The USSR State Arbitration Commission has the right, with the consent of ministries, state committees, and departments, to enlist specialists and scientific workers for preparation of normative enactments and specific questions related to legal regulation of economic activity.

14. The USSR State Arbitration Commission is headed by the Chief State Arbiter of the USSR, who is appointed to the position for a term of 5 years by the USSR Supreme Soviet, and in the period between sessions by the Presidium of the USSR Supreme Soviet with subsequent ratification by the USSR Supreme Soviet.

The Chief State Arbiter of the USSR is responsible for performance of the tasks assigned to the USSR State Arbitration Commission.

The Chief State Arbiter of the USSR has deputies, including a first deputy, who are appointed to their positions by the Presidium of the USSR Supreme Soviet, on submission by the Chief State Arbiter of the USSR.

State arbiters of the USSR State Arbitration Commission are appointed to the position by the Presidium of the USSR Supreme Soviet on submission by the Chief State Arbiter of the USSR.

The distribution of duties among deputies of the Chief State Arbiter of the USSR and also among the state arbiters of the USSR State Arbitration Commission is done by the Chief State Arbiter of the USSR.

15. The Chief State Arbiter of the USSR directs the activity of state arbitration organs, issues orders, instructions, and decrees on the basis of and in execution of the law, ratifies statutes on the structural subdivisions of the central apparatus of the USSR State Arbitration Commission, appoints and discharges employees of this apparatus following established procedures, determines the degree of accountability of managers of structural subdivisions for particular areas of activity of the USSR State Arbitration Commission, exercises general direction over work on the selection, placement, and indoctrination of personnel in the system of state arbitration organs, and applies measures of incentive and penalties to employees of these organs by established procedures.

16. In conformity with the Rules of the Supreme Soviet of the Union of Soviet Socialist Republics, at least once during the period of his term the Chief State Arbiter of the USSR submits a report on the activity of the USSR State Arbitration System to the USSR Supreme Soviet, regularly reports on it to the Presidium of the

USSR Supreme Soviet, and on questions within the jurisdiction of the USSR Government reports to the USSR Council of Ministers.

17. A collegium is formed at the USSR State Arbitration Commission consisting of the Chief State Arbiter of the USSR (chairman), his first deputy, deputies by position, and also state arbitration executives.

The membership of the collegium of the USSR State Arbitration Commission is ratified by the Presidium of the USSR Supreme Soviet on submission by the Chief State Arbiter of the USSR.

The decisions of the collegium are put into effect by orders of the Chief State Arbiter of the USSR. In cases of disagreement between the Chief State Arbiter of the USSR and the collegium, the Chief State Arbiter of the USSR puts his own decision into effect, while reporting the disagreement to the Presidium of the USSR Supreme Soviet. The members of the collegium in their turn can report their opinion to the Presidium of the USSR Supreme Soviet.

18. The USSR State Arbitration Commission, following established procedures, calls meetings of employees of state arbitration organs, the arbitration commissions of ministries, state committees, and departments and also other organs that resolve economic disputes; these meetings hear reports on steps to carry out decisions of the Party and Government and review questions of the application of existing law in resolving economic disputes and other important matters in the work of arbitration commissions.

19. A scientific consulting council composed of prominent learned and other highly qualified specialists (including representatives of ministries, state committees, and departments) is formed at the USSR State Arbitration Commission to prepare scientifically substantiated recommendations on questions of the organization and activity of arbitration organs and review questions of working out steps to prevent and eliminate violations of the law, violations of state discipline, and shortcomings in economic activity that are identified by state arbitration organs.

The membership of the scientific consulting council and the statute on it are ratified by the Chief State Arbiter of the USSR.

20. The USSR State Arbitration Commission together with the USSR Ministry of Justice publishes the journal KHOZYAYSTVO I PRAVO.

21. The structure and size of the central apparatus of the USSR State Arbitration Commission are ratified by the USSR Council of Ministers. The staff schedule of the USSR State Arbitration Commission is ratified by the Chief State Arbiter of the USSR.

22. The USSR State Arbitration Commission has a seal with a depiction of the USSR State Emblem and its own name. Ratified by Decree No 440 of the USSR Council of Ministers dated 5 June 1980 (in the edition of Decree No 490 of the USSR Council of Ministers dated 16 April 1988)

## **Rules for Hearing of Economic Disputes by State Arbitration Commission**

### **Chapter I. General Principles**

#### **Article 1. Legislation That Defines Procedures for Hearing Economic Disputes**

The procedure for hearing of disputes by state arbitration commissions is defined by the USSR Law on State Arbitration in the USSR, the present Rules, and other legislative enactments of the USSR. The present Rules have the purpose of ensuring that disputes are resolved by state arbitration commissions in exact conformity with the law of the USSR and Union republics, beginning from the tasks envisioned by the USSR Law on State Arbitration in the USSR.

#### **Article 2. The Right to Go to State Arbitration**

Enterprises, institutions, organizations, their higher-ranking organs, and other state organs have the right, following established procedures, to go to state arbitration for defense of rights that have been violated or are being disputed or defense of legally protected interests. A renunciation of the right to go to state arbitration is invalid.

#### **Article 3. Institution of Proceedings at a State Arbitration Commission**

A state arbitration commission institutes proceedings on the application of:

- interested enterprises, institutions, and organizations who call on the arbitration commission to uphold rights that have been violated or disputed or legally protected interests;
- higher-ranking organs (ministries, state committees, departments, or other higher-ranking organs) that call on the arbitration commission in the interests of enterprises, institutions, and organizations that are within their systems;
- other state organs that call on the arbitration commission in cases envisioned by law;
- procurators who submit petitions to the arbitration commission in the interests of state, cooperative, and other public enterprises, institutions, and organizations.

A state arbitration commission has the right to institute proceedings on its own initiative.

#### **Article 4. Taking Steps Toward Direct Settlement of Economic Disputes**

A dispute may be turned over for resolution by state arbitration only after the parties have taken steps to fulfill their obligations in respect to direct settlement of the dispute by established procedures.

Proceedings based on a petition of the procurator or at the initiative of a state arbitration commission are instituted regardless of whether the parties have observed procedures for direct settlement of the dispute.

#### **Article 5. Hearing of Economic Disputes**

Disputes are heard by a state arbitration commission consisting of a chairman—a state arbiter or chief state arbiter or his deputy—and representatives of the parties.

For hearing complex disputes the chief state arbiter or deputy chief state arbiter may by written order include an additional two state arbiters on the arbitration commission, appointing one of the three arbiters to chair the session.

In the cases and by the procedure established by Article 70 of the present Rules a dispute may be heard without the participation of representatives of the parties.

The requests of the state arbiter made within the limits of the rights of state arbitration in connection with the hearing of a dispute are mandatory for all enterprises, institutions, organizations, their higher-ranking organs and officials.

#### **Article 6. The Law on the Basis of Which Economic Disputes are Heard**

State arbitration organs resolve disputes on the basis of the laws and other legislative enactments of the USSR and Union republics, decrees and orders of the USSR Council of Ministers and Councils of Ministers of the Union republics, and other normative enactments and in conformity with state plans of economic and social development.

State arbitration organs are also guided by the instructional orders of the USSR State Arbitration Commission and the state arbitration commissions of the Union republics for questions of application of the law in resolving disputes and their pre-arbitration settlement.

#### **Article 7. The Mandatory Nature of Decisions of the State Arbitration Commission**

The decisions of the state arbitration commission (decision, decree, or order) go into force immediately after they are adopted and are mandatory for performance by all enterprises, institutions, organizations, ministries, state committees, and departments.



#### **Article 8. Review of State Arbitration Decisions on a Supervision Basis**

State arbitration decisions may be reviewed on a supervision basis.

### **Chapter II. Jurisdiction Over Economic Disputes**

#### **Article 9. Economic Disputes Subject to the Jurisdiction of State Arbitration Organs**

State arbitration organs hear disputes between state, cooperative, and other public enterprises, institutions, and organizations, joint enterprises, and international associations and organizations of the USSR and the other CEMA countries which arise during the conclusion, modification, termination, and performance of economic contracts or on other grounds, except for:

- 1) Disputes of kolkhozes, inter-kolkhoz and state-kolkhoz enterprises, organizations, and associations of them with state, cooperative, and other public enterprises, institutions, and organizations, as well as among themselves;
- 2) Disputes that arise during conclusion of contracts that are not based on plan assignments that are mandatory for both parties if no other procedure is specially envisioned by law or agreement of the parties;
- 3) Disputes concerning taxes and non-tax payments collected for the state budget in conformity with the Statute on Collection of Taxes and Non-Tax Payments Not Paid on Time;
- 4) Disputes over amounts of less than 100 rubles;
- 5) Disputes between enterprises, institutions, and organizations, on the one hand, and organs of railway or air transportation on the other, arising from contracts for shipping freight in direct international rail and air transportation, which are resolved by courts in conformity with international agreements;
- 6) Disputes between enterprises, institutions, and organizations of a single ministry, state committee, or department, the cooperative system, or other public organization, with the exception of cases envisioned by USSR laws;
- 7) Disputes between enterprises, institutions, and organizations arising in connection with bank performance of financial monitoring of the use of money for capital investment (excluding disputes over payment of the value of equipment, machinery, and other material goods classified as fixed capital which are delivered under contract and are subject to hearing at arbitration organs);
- 8) Disputes arising in agreeing upon standards and technical specifications;

9) Disputes over establishing prices for output and also rates for services rendered (jobs performed), if these prices and rates according to existing law cannot be set by agreement of the parties;

10) Other disputes whose resolution USSR law assigns to other organs.

State arbitration organs hear disputes between state enterprises (associations) and organizations and their higher-ranking organs over reimbursement of losses caused to enterprises (associations) and organizations as the result of carrying out orders of higher-ranking organs that violate the rights of the enterprises (associations) and organizations and also as a result of improper performance by higher-ranking organizations of their duties with respect to the enterprises (associations) and organizations.

#### **Article 10. Economic Disputes That Are Resolved by the USSR State Arbitration Commission**

The USSR State Arbitration Commission resolves:

- 1) Disputes between parties located in different Union republics that arise during conclusion, modification and termination of economic contracts for amounts of more than 5 million rubles, and also during performance of contracts and on other grounds where the value of the suit is more than 50,000 rubles;
- 2) Other disputes assigned to the USSR State Arbitration Commission by USSR law.

The USSR State Arbitration Commission has the right, within the limits of the jurisdiction of state arbitration organs over disputes, to accept any dispute for handling and resolution or to institute a proceeding on its own initiative.

#### **Article 11. Economic Disputes Resolved by the State Arbitration Commission of a Union Republic**

The state arbitration commission of a Union republic which does not have state arbitration organs under its jurisdiction resolves all disputes under the jurisdiction of state arbitration organs except disputes which are assigned to the USSR State Arbitration Commission.

The state arbitration commission of a Union republic which does have state arbitration organs under its jurisdiction resolves:

- 1) Disputes between parties located in different Union republics arising during the conclusion, modification, and termination of economic contracts for amounts more than 2 million, but less than 5 million rubles, and also during performance of contracts and on other grounds where the value of the suit is more than 20,000, but less than 50,000 rubles.

2) Disputes between parties located in different autonomous republics, krais, and oblasts of the given Union republic, arising during conclusion, modification, and termination of economic contracts for amounts of more than 2 millions rubles, and also during performance of contracts and on other grounds where value of the suit is more than 20,000 rubles;

3) Other disputes assigned to the state arbitration commission of the Union republic by USSR law.

If the state arbitration commission of a Union republic has subordinate to it only the state arbitration commissions of autonomous republics and autonomous oblasts, then in cases where enterprises, institutions, organizations, and their higher-ranking organs are the plaintiffs, and the suppliers, contractors, or providers of services (performers of jobs) are located in a rayon or city that is not part of the autonomous republic or autonomous oblast, the disputes are resolved by the state arbitration commission of the given Union republic (except for disputes assigned to the USSR State Arbitration Commission).

The state arbitration commission of a Union republic has the right, within the limits of the jurisdiction of state arbitration organs of the given Union republic over disputes, to accept and resolve any dispute or institute proceedings on its own initiative.

**Article 12. Economic Disputes Resolved by the State Arbitration Commissions of Autonomous Republics, Krais, Oblasts, Cities, Autonomous Oblasts, and Autonomous Okrugs**

A state arbitration commission of an autonomous republic, kray, oblast, city, autonomous oblast, or autonomous okrug resolves all disputes subject to the jurisdiction of state arbitration organs except disputes assigned to the USSR State Arbitration Commission and the state arbitration commission of the Union republic.

If enterprises, organizations, and their higher-ranking organs are plaintiffs and the suppliers, contractors, or providers of services (performers of work) are located in a city of republic (USSR-republic) subordination, where there is not a city state arbitration commission, disputes are resolved by the state arbitration commission of the oblast in which the city is located, with the exception of disputes assigned to the USSR State Arbitration Commission and the state arbitration commission of the Union republic.

A state arbitration commission of an autonomous republic, kray, oblast, city, autonomous oblast, or autonomous okrug has the right, within the limits of disputes subject to the jurisdiction of the given arbitration commission, to institute proceedings on its own initiative.

**Article 13. Territorial Jurisdiction over Economic Disputes Resolved by State Arbitration Organs**

Disputes subject to the jurisdiction of state arbitration organs and arising during the conclusion, modification, and termination of economic contracts are heard by the state arbitration commission in the place where the enterprise, institution or organization which is the supplier, contractor, or provider of services (performer of work) is located. Disputes arising during performance of economic contracts and on other grounds are heard in the place where the defendant is located.

In cases where a structural unit of an association is participating in the proceeding, territorial jurisdiction over disputes is determined in conformity with the first part of the present article depending on the location of the structural unit, not the association.

If defendants who are located in different republics, krais, oblasts, republic-subordinate cities, autonomous oblasts, and autonomous okrugs are participating in the proceeding, the dispute is heard by the state arbitration commission at the place where one of the defendants is located, at the choice of the plaintiff.

**Article 14. Exceptional Jurisdiction over Economic Disputes**

Disputes connected with the delivery of output that is of improper quality or incomplete and in which several defendants are participating are heard by the state arbitration commission at the place where the defendant who manufactured the output is located, or if the output delivered was produced by several manufacturers at the place where the supplier-defendant is located.

Disputes connected with a shortage of output in which several defendants are participating are heard by the state arbitration commission at the place where the shipper of the output is located. Disputes connected with a shortage of output that is transshipped by the shipper without opening the manufacturer's packages is heard at the place where the manufacturer is located, and in cases of transshipment of output produced by several manufacturers, at the place where the shipper from whom the output was received is located.

Disputes arising from shipping contracts in which one of the defendants is a transportation organ are heard by the state arbitration commission at the place where the transportation organ is located.

Disputes arising during the conclusion, modification, termination, and performance of contracts for export and import of goods (including disputes arising from a shipping contract), if one of the parties is a foreign trade organization, are heard by the state arbitration commission at the place where the foreign trade organization is located. If the foreign trade organization is located in the city of Moscow or in Moscow Oblast, the disputes are

heard by the Moscow Oblast State Arbitration Commission, except for disputes that are under the jurisdiction of the USSR State Arbitration Commission and the RSFSR State Arbitration Commission.

Disputes over reimbursement of losses to state enterprises (associations) and organizations by their higher-ranking organs of USSR and republic (Union or autonomous) subordination are heard, respectively, by the USSR State Arbitration Commission, or the state arbitration commission of the Union or autonomous republic; disputes over reimbursement of losses to higher-ranking organs of local subordination are heard by the state arbitration commission of the kray, oblast, city, autonomous oblast, and autonomous okrug.

**Article 15. Transfer of Case Materials or a File Because of Jurisdiction and Resolving Disputes that Arise During This**

Where an economic dispute is not within the jurisdiction of the particular state arbitration organ or the jurisdiction of the dispute changes during the hearing process because the amount of the suit increases, the grounds of the suit are changed, a counter claim is made, another plaintiff or defendant is joined, or there is a change of parties, the state arbitration commission directs the case materials or file on according to the established jurisdiction not more than 5 days after the statement of claim is received or the order on transfer of the file is delivered.

If the plaintiff reduces the amount of the claim the dispute must be decided by the given state arbitration commission.

The order on transfer of a file can be reviewed on a supervision basis.

In cases where the chief state arbiter or deputy chief state arbiter finds that case materials or a file have been transferred to a particular state arbitration organ in violation of jurisdiction, these materials or this file with the appropriate finding are directed to the state arbitration commission of the Union republic for deciding the question of jurisdiction over the dispute if disputes have arisen between the state arbitration commissions of this republic, or to the USSR State Arbitration Commission if disputes have arisen between the state arbitration commissions of different Union republics.

**Chapter III. Participants in the Arbitration Process**

**Article 16. The Parties That Participate in the Hearing of Economic Disputes**

The parties in disputes decided by state arbitration—plaintiffs and defendants—may be enterprises, institutions, and organizations that are legal persons, as well as their higher-ranking organs or other state organs. Plaintiffs may be enterprises, institutions, organizations, and the indicated organs who have filed suit or in whose

interests suit has been filed or a case initiated, while defendants may be enterprises, institutions, organizations and organs against whom a demand for relief has been directed.

In cases envisioned by law structural units of associations may be parties to disputes.

**Article 17. The Rights and Obligations of the Parties**

Each of the parties during the hearing of economic disputes in state arbitration has equal procedural rights.

The parties have the right to familiarize themselves with the materials in the file, to make extracts and take copies from them, to present evidence, to participate in the examination and investigation of evidence, to make motions, to give explanations, to present their arguments on all issues that arise during the hearing of disputes, to oppose the motions and arguments of other participants in the arbitration proceeding, to enter into legally based agreements with another party concerning the dispute, to participate in reaching the verdict, and to submit applications for review of verdicts, and also enjoy all the rights given to them by the present Rules.

The parties are obligated to use their procedural rights conscientiously, demonstrating mutual respect for the rights and legally protected rights of other parties, and to take steps to see that there is a full-comprehensive, and objective investigation of all the circumstances of the case.

**Article 18. Change in the Grounds or Object of a Suit, Change in the Amount of the Claim, Withdrawal of a Suit, and Confession of a Suit**

Before the decision is made on an economic dispute the plaintiff has the right to change the grounds or object of the suit or increase the amount of the claim on the condition that procedures for direct settlement of the dispute in this part have been observed.

The plaintiff has the right to withdraw the suit or reduce the amount of the claim. The defendant has the right to confess the claim either fully or in part.

The state arbitration commission does not accept the withdrawal of the suit, reduction in the amount of the claim, or confession of the suit if these actions contradict the law or violate someone's rights or legally protected interests.

The state arbitration commission has the right to change the grounds or object of the suit on its own initiative.

**Article 19. Participation of a Structural Unit of an Association in the Arbitration Process**

A structural unit of an association may participate in the arbitration process:

—in behalf of the association, in disputes that arise when this unit is concluding economic contracts within the rights granted to it by law and the association, and also when modifying, terminating, or executing such contracts; in these cases the association is the party in the arbitration proceeding;

—in its own behalf, in disputes that arise when the structural unit is concluding economic contracts in conformity with a right granted to it by the association, and also when modifying, terminating, and executing such contracts; in this case the structural unit is a party in the arbitration proceeding.

A structural unit of an association which participates in an arbitration proceeding has the rights and bears the obligations of the appropriate party.

#### **Article 20. Representatives of the Parties**

The representatives of the parties in state arbitration are the managers or deputy managers of enterprises, institutions, organizations, and their higher-ranking organs, other state organs, and also structural units of associations which are participating in the arbitration proceeding. The authority of these persons is confirmed by documents that certify their official position.

Other persons may also be representatives of the parties; the authority of these persons is confirmed by a properly completed power of attorney.

#### **Article 21. Participation of Several Plaintiffs and Defendants in a Case**

A suit may be filed by several plaintiffs or against several defendants. Each of the plaintiffs or defendants operates independently in the arbitration proceeding relative to other parties.

#### **Article 22. Joining Another Plaintiff or Defendant in the Case**

Where there are adequate grounds the state arbitration commission has the right before making its decision in an economic dispute, by petition of a party or on its own initiative, to join an appropriate enterprise, institution, or organization in the case as another plaintiff or defendant.

The petition to join a plaintiff or defendant in the case may be granted on the condition that the parties have taken steps toward direct settlement of the dispute by established procedures. Joining a plaintiff or defendant in the case at the initiative of the state arbitration commission during hearing of the dispute can be done regardless of whether the parties have observed the procedures for direct settlement of the dispute.

An order is made on joining a plaintiff or defendant in the case.

#### **Article 23. Participation of Higher-Ranking Organs of the Parties in an Arbitration Proceeding**

Higher-ranking organs of the parties may participate in an arbitration proceeding where they file suit in the interests of enterprises, institutions, and organizations included in their systems; in this case they enjoy the procedural rights and bear the obligations of a plaintiff.

#### **Article 24. Participation of the Procurator in an Arbitration Proceeding**

According to the law, a procurator may participate in an arbitration proceeding.

#### **Article 25. Participation of Officials of the Parties, Their Higher-Ranking Organs, Other Enterprises, Institutions, Organizations, and of Experts in an Arbitration Proceeding**

Officials of the parties, their higher-ranking organs, and other enterprises, institutions, and organizations can participate in an arbitration proceeding when they are summoned to give presentations on the substance of the economic dispute. These persons have the right to familiarize themselves with the materials of the file, to give explanations, to submit evidence, and to participate in the examination and investigation of the evidence, and they are obligated to use their procedural rights conscientiously.

These persons are obligated to appear at the state arbitration commission when summoned, to report information and circumstances relative to the case that are known to them, and to submit presentations in written form on demand by the state arbitration commission.

Experts may participate in an arbitration proceeding.

#### **Article 26. Participation of the Public in the Hearing of Economic Disputes**

Representatives of public organizations and labor collectives of enterprises, institutions, and organizations, their higher-ranking organs, and other state organs which are a party in the case may participate in the hearing of disputes by a state arbitration commission for the purpose of giving the state arbitration commission the opinions of authorized representatives of their organizations and collectives concerning the dispute under consideration.

The representatives of public organizations and labor collectives have the right to familiarize themselves with the materials of the file, to submit evidence, to present their arguments on all issues that arise during hearing of the disputes, and to participate in the examination and investigation of evidence and in clarifying the causes of violations of legality, state discipline, and shortcomings in economic activity, and they are obligated to use the procedural rights given to them in strict conformity with the law.

The authority of representatives of public organizations and labor collectives is validated by an extract from a decision adopted by a general meeting of the labor collective or council of the labor collective or by the elected organ of the public organization.

#### **Article 27. Procedural Succession**

In case of the retirement of one of the parties in a disputed legal relationship or a relationship established by decision of a state arbitration commission as the result of reorganization of an enterprise, institution, organization, their higher-ranking organ or other state organ, the arbitration commission replaces this party with its successor in right, indicating this in a decision or order. Legal succession is possible in any stage of an arbitration proceeding.

### **Chapter IV. Evidence**

#### **Article 28. The Concept and Types of Evidence**

Evidence in a case is any factual data on the basis of which the state arbitration commission by legally established procedures determines the existence or absence of circumstances that substantiate the claims and defenses of the parties and also other circumstances that are important for a correct resolution of the economic dispute.

These facts are established by the following means: written and material evidence, statements by representatives and other officials of the parties, their higher-ranking organs, and other enterprises, institutions and organizations, and the findings of experts.

#### **Article 29. The Burden of Proof and Submission of Evidence**

Each party must prove those circumstances on which it bases its claims and defenses.

Evidence is submitted by the parties and by other participants in an arbitration proceeding.

#### **Article 30. The Relevance and Permissibility of Evidence**

The state arbitration commission accepts only that evidence which is significant for the case.

The circumstances of the case which according to law must be confirmed by particular evidentiary means cannot be confirmed by other evidentiary means.

#### **Article 31. Grounds for Release from Presentation of Evidence**

Circumstances which are recognized by a state arbitration commission as common knowledge do not need to be proved.

Facts established by a decision of a state arbitration commission in hearing one economic dispute are not proved again in hearing other disputes in which the same enterprises, institutions, organizations, their higher-ranking organs, and other state organs participate.

A court verdict in a criminal case that has gone into effect is mandatory for a state arbitration commission that is hearing a dispute with respect to the questions of whether certain actions took place and who performed them.

A court verdict in a civil matter that has gone into effect is mandatory for a state arbitration commission that is hearing a dispute with respect to the questions of facts established by the court and relevant to the case.

#### **Article 32. Written Evidence**

Written evidence is documents, letters, written presentations, information, findings, and other documents and materials that contain information about circumstances that are important for a correct resolution of the economic dispute.

Written evidence is submitted in the original or in an appropriately verified copy. If only part of a document is important for the case, a properly verified extract from it is submitted.

Original documents are submitted when the circumstances of the case, according to law, must be verified only by such documents, and also in other essential cases on the demand of the state arbitration commission.

#### **Article 33. Material Evidence**

Material evidence is objects which can serve as means to establish circumstances that are important for a correct resolution of the economic dispute.

#### **Article 34. Demand for Evidence**

The state arbitration commission has the right to demand that enterprises, institutions, organizations, and their higher-ranking organs, as well as other state organs, including those which are not parties, submit documents, information, and findings which are essential to resolve the economic dispute and the right to familiarize itself with such materials directly at the enterprises, institutions, organizations, their higher-ranking organs, and other state organs.

A party who petitions for a demand of evidence must show what circumstances of importance in the case can be established by this evidence.

The state arbitration commission has the right to authorize a party to receive such evidence from enterprises, institutions, organizations, their higher-ranking organs, and other state organs which are not parties in the dispute under consideration.

**Article 35. Examination and Investigation of Written and Material Evidence at the Place Where it is Kept**

The state arbitration commission can conduct an examination and investigation of written and material evidence at the place where it is kept in cases where it is difficult to submit this evidence.

A report of the results of the examination and investigation of evidence is prepared and signed by the state arbiter and representatives of the parties who participated in the examination and investigation of the evidence. The report is attached to the file.

**Article 36. Returning Written and Material Evidence**

Original documents contained in the file are returned, at the request of enterprises, institutions, organizations, and their higher-ranking organs, as well as other state organs, to them after completion of the hearing of the economic dispute where appropriately verified copies of these documents are submitted.

Material evidence being kept at the state arbitration commission is returned, after completion of the hearing of the dispute, to the enterprises, institutions, organizations, and organs from which it was received or turned over to the enterprises, institutions, organizations, and organs whose right to these things has been recognized by the state arbitration commission.

**Article 37. Assignment and Conduct of Expert Examination**

To clarify issues that arise during the hearing of an economic dispute and that demand specialized knowledge, the state arbitration commission appoints an expert examining group (technical, commercial, accounting, and so on).

The participants in an arbitration proceeding have a right to submit questions to the state arbitration commission which must be clarified by the expert.

The set of questions on which the expert must make findings is finally determined by the state arbitration commission in an order.

The conduct of the expert examination should be assigned to competent institutions and organizations, and only where there is no such possibility should it be assigned directly to specialists who have the knowledge necessary for this. Persons conducting an expert examination have a right to familiarize themselves with the

materials of the file and to request additional materials from the parties. In case of necessity the expert examination is done with participation by representatives of the parties.

**Article 38. Expert Findings**

The findings of the expert should contain a detailed description of the tests made, the conclusions drawn from their results, and substantiated answers to the questions posed by the state arbitration commission. The findings are submitted to the state arbitration commission in written form with copies to the parties.

If during the expert examination circumstances are established which are important for a correct resolution of the economic dispute but which the state arbitration commission did not pose as questions, the expert presents his conclusions on these circumstances also in his findings.

In cases where the findings of the expert are not adequately clear or complete, the state arbitration commission may assign an additional expert examination. Where there is disagreement with the findings of the expert the state arbitration commission can assign a second expert examination, to be conducted by a different expert.

**Article 39. Evaluation of Evidence**

The state arbitration commission evaluates all evidence by its inner conviction, based on comprehensive, complete, and objective investigation of all the circumstances of the case and guided by the law.

No evidence has predetermined force for the state arbitration commission.

The admission by one party of factual data and circumstances on which the other party bases his claim or defense is mandatory for the state arbitration commission.

Expert findings are discussed by the state arbitration commission at a meeting and evaluated together with all other evidence in the case.

Expert findings may be set aside by the state arbitration commission, with reasons for this given in the decision.

**Chapter V. Provisional Remedies**

**Article 40. The Purpose of Provisional Remedies**

On application by a party or on its own initiative the state arbitration commission has the right to take steps for provisional remedies. A provisional remedy is permitted if failure to take such steps would make it difficult or impossible to carry out the decision.

#### **Article 41. Provisional Remedy Measures**

Provisional remedy measures may be the following:

- 1) Attachment of property or money belonging to the defendant;
- 2) Forbidding the defendant from performing certain actions;
- 3) Stopping collection based on an executory document disputed by the plaintiff or other document under which the collection is done in a non-disputed (non-acceptance) manner.

An order is delivered on the provisional remedy.

#### **Article 42. Withdrawing the Provisional Remedy**

The question of withdrawing a provisional remedy is decided by the state arbitration commission that is hearing the economic dispute, with an indication of this in the decision or order.

### **Chapter VI. Arbitration Costs**

#### **Article 43. What Are Arbitration Costs**

Arbitration costs consist of the state fee and amounts subject to payment for conducting expert examinations ordered by the state arbitration commission.

#### **Article 44. The State Fee**

Civil complaints and petitions for review of state arbitration commission decisions are subject to a state fee.

#### **Article 45. The Value of the Suit**

The value of a suit by which the state fee is computed is determined by the plaintiff based on the amount being claimed or the amount being disputed by the plaintiff under an executory document or other document by which collection is being done in a non-disputed (non-acceptance) manner. The value of the suit in economic disputes concerning demand for property is determined based on the value of this property. The value of the suit also includes any penalty sums indicated in the complaint and, if they are not indicated, the amount determined in the decision of the state arbitration commission. In cases where the plaintiff incorrectly states the value of his suit or where the case is begun at the initiative of a state arbitration commission, the value of the case is determined by the state arbitration commission.

The value of a suit consisting of several independent claims is determined by the total claim.

#### **Article 46. Collection of the State Fee**

The state fee is paid or charged to budget income by the procedure and in the amount established by law.

When a decision is made in a case begun by petition of the procurator or on the initiative of the state arbitration commission, the state fee is collected for budget income on general principles.

Where the amount of the claim is increased, the shortfall in the amount of the state fee is charged in conformity with the increased value of the suit.

Where one state arbitration commission transfers the case materials or file on an economic dispute that arose during conclusion, modification, and termination of a contract to be heard by another state arbitration commission, the state fee is charged by the commission to which the materials or file are turned over.

#### **Article 47. Reimbursement of the State Fee**

The state fee is subject to reimbursement in cases envisioned by law.

The state fee is reimbursed by financial organs on the basis of a decision, order, or decree of a state arbitration commission which indicates the circumstances that are the grounds for complete or partial reimbursement of the state fee. For petitions on which the state fee has been paid which do not go into state arbitration, the fee is reimbursed on the basis of a document issued by it.

#### **Article 48. Determination of the Amount to be Paid for the Expert Examination**

In cases where the expert examination is done for compensation, the amount of compensation is determined by the state arbitration commission in its decision with due regard for the properly established rate of pay and the time spent conducting the expert examination.

Experts are reimbursed for the travel and housing costs they incur in connection with appearing before the state arbitration commission, and they receive a per diem payment in the amount established by law for employees sent on business trips.

#### **Article 49. Distribution of Arbitration Costs**

The state fee applies:

- 1) in disputes that arise during the conclusion, modification, and termination of contracts—to the party who without grounds refuses to accept the proposals of the other party, or to both parties if some of the proposals of each party are rejected by the state arbitration commission;
- 2) in disputes that arise during execution of contracts and on other grounds—to the parties proportional to the amount of their satisfied claims.

If a case arose because of incorrect actions by a party (failure by the defendant to respond to a statement of claim, failure of the plaintiff to send documents demanded by defendant for review of the claim, and so

on) the state arbitration commission has the right to charge the expenditures for the state fee to that party regardless of the outcome of the case.

A state fee from which the plaintiff has been released by proper procedures is charged against the defendant and to budget income proportional to the amount of the claim satisfied, if the defendant has not been released from payment of the fee.

The state arbitration commission compensates the party in whose favor the decision is made for its expenditures to pay the state fee at the expense of the other party, even where this other party was also released from payment of the fee.

Amounts subject to payment for the expert examination are charged as follows: to the defendant if the claim is satisfied; to the plaintiff if the claim is denied; to both parties proportional to the amount of the claim satisfied if the claim is partially satisfied.

## **Chapter VII. Procedural Times**

### **Article 50. Setting and Calculating Procedural Times**

Procedural actions are taken within the times set by law. In those cases where procedural times are not set by law they are set by the state arbitration commission.

The times for performance of procedural actions are defined by exact calendar dates and an indication of the event which must occur, or a period of time. In the latter case, the action may be completed during the entire period.

A procedural time period counted in years, months, or days begins on the day following the calendar date or the occurrence of the event which is defined as its beginning.

### **Article 51. End of Procedural Time Periods**

A time period calculated in years runs out on the appropriate month and day of the last year of the period. A time period calculated in months runs out on the appropriate month and day of the last month of the period. If the end of a time period calculated in months falls in a month which does not have the corresponding day the period runs out on the last day of this month.

In cases where the last day of a time period falls on a non-working day, the first working day after it is considered to be the end of the period.

A procedural action for which a time period has been set can be performed until 2400 of the last day of the time. If a complaint, answer to a complaint, petition for review of a decision, or other document was turned over to the post office or telegraph before 2400 of the last date of the time period, the time is not considered to have been missed.

### **Article 52. Consequences of Missing Procedural Times**

The right to perform procedural actions expires with the expiration of time periods established by law or set by a state arbitration commission.

Petitions and other documents submitted after expiration of procedural times may be returned or left unheard.

### **Article 53. Suspension of Procedural Times Periods**

The running of all procedural time periods that have not expired is suspended when action in the case is suspended. When the case is renewed procedural time continues to run.

### **Article 54. Reinstatement and Extension of Procedural Times Periods**

The state arbitration commission, having found justifiable reasons for missing a procedural time established by law, may reinstate the missed time.

The petition for reinstatement of a missed time is submitted to the state arbitration organ in which the procedural action should have been performed.

Reinstatement of a missed time is indicated in a decision, order, or decree of the state arbitration commission. Where reinstatement of the time is refused an order is issued and sent to the petitioner.

The order refusing to reinstate a missed time may be reviewed on a supervision basis.

Times set by a state arbitration commission can be extended by them on application of a party or on their own initiative.

## **Chapter VIII. Bringing a Suit**

### **Article 55. The Form and Content of the Statement of Claim**

The statement of claim is submitted to the state arbitration commission in written form and signed by the manager or deputy manager of the enterprise, institution, organization, their higher-ranking organ, other state organ, structural unit of an association, or procurator who is sending the document to arbitration.

The statement of claim must indicate the following:

- 1) The name of the state arbitration organ to which the statement is being submitted;
- 2) The date of signature and number of the statement of claim;
- 3) The name and subordination of the parties or structural units of associations, mailing addresses, the name and number of the account against which a charge can be



made, the name and number of the account to which the amount charged should be transferred, and the name of the credit institutions in which the accounts of the parties are held;

4) The value of the suit, if the suit is subject to evaluation; the amount of the contract (for economic disputes that arise during the conclusion, modification, and termination of contracts);

5) The circumstances on which the claim is based and the evidence that confirms the circumstances presented in the statement, a substantiated calculation of the amount to be charged or in dispute, and the legal grounds for the suit;

6) Information on steps taken by the petitioner to fulfill its obligations toward direct settlement of an economic dispute indicating the date that such a proposal was sent to the other party and the date its answer was received; and the reasons for denying the arguments presented in the answer, statement of disagreement, or other documents;

7) The claim proper; if the suit is being brought against several defendants, a claim against of each of them;

8) A list of documents appended to the statement.

The statement of claim may also indicate other information if the petitioner believes that it is essential for a correct resolution of the dispute.

#### **Article 56. Documents Appended to the Statement of Claim**

Appended to the statement of claim are documents which confirm:

- 1) The facts on which the claim is based;
- 2) The authorization of the structural unit of an association if it is submitting the petition;
- 3) The steps taken by the petitioner to perform its obligations toward direct settlement of an economic dispute with each of the defendants (for disputes that arise during conclusion, modification, and termination of contracts—correspondently, the contract, draft contract, and letter containing a demand to conclude, modify, or terminate the contract, a statement of disagreement and documents that certify the date when it was received, information on the proposals of one party and their review by established procedures, the answer of the other party if it was received, and other documents; for disputes that arise during performance of contracts and on other grounds—a copy of the complaint, evidence that it was sent to the defendant, and copy of the answer to the complaint if an answer was received;

4) Sending of a copy of the statement of claim and appended documents to the defendant (postal receipt, inventory of a value letter, extract from the registry of postal shipments, and so on);

5) Payment of the state fee in the manner and amount established by law.

#### **Article 57. Sending a Copy of the Statement of Claim and Documents Appended to It**

When bringing suit and also when the state arbitration commission joins another plaintiff or defendant to the case, the petitioner must send the parties a copy of the statement of claim and appended documents, if the parties do not have them.

#### **Article 58. Consolidation of Statements of Claim**

One statement of claim may consolidate several claims in cases where they are interrelated as to grounds of their occurrence or evidence submitted, and also in other cases where the law permits consolidation of claims.

Several claims of up to 100 rubles may be consolidated in a single statement of claim in the manner established by the USSR State Arbitration Commission.

The state arbiter has the right, within the limits of the jurisdiction of economic disputes established for the particular state arbitration organ, to consolidate several similar cases in which the same parties are participating into one case.

#### **Article 59. The Answer to the Statement of Claim**

No later than 5 days after receiving a copy of the statement of claim the defendant must send to the state arbitration commission, the plaintiff, and other defendants, and also the appropriate procurator (if the petition was sent to arbitration by a procurator) a response to the statement of claim and all documents necessary to hear the economic dispute.

The answer is signed by the manager or deputy manager of the enterprise, institution, organization, their higher-ranking organ, or a structural unit of an association and is sent by registered or value mail or delivered personally with a signed receipt.

The answer gives:

- 1) The name of the state arbitration organ in which the dispute is being heard;
- 2) The date of signature and number of the answer, the name of the plaintiff;
- 3) The content of the answer to the proposal for direct settlement of the dispute, if the statement of claim indicates that the plaintiff did not receive an answer to it

(in this case a copy of the answer to the proposal on direct settlement of the dispute and evidence that it was sent to plaintiff are attached to the answer);

4) The amount and calculation of the admitted sum, and if it was transferred, the number and date that the corresponding payment document was made and evidence that it was received by a credit institution for execution;

5) The reasons for a complete or partial denial of the plaintiff's demand with reference to legal grounds and also to evidence that substantiates a denial of the claim;

6) A list of documents appended to the answer.

#### **Article 60. Presenting a Counter Claim**

Before a decision is made on an economic dispute the defendant has the right to make a counter claim against the plaintiff to be heard together with the initial suit. The counter claim should be connected to the original suit.

A counter claim is presented according to the general rules for bringing suit.

### **Chapter IX. Initiating Cases and Preparation of Materials for Review at a Session of a State Arbitration Commission**

#### **Article 61. Acceptance of the Statement of Claim**

The question of accepting a statement of claim is decided by the state arbitration commission.

#### **Article 62. Refusal to Accept a Statement of Claim**

The state arbiter refuses to accept a statement of claim:

1) if the petition is not subject to hearing in state arbitration organs;

2) if there is a decision of a court, arbitration commission, arbitration tribunal, or fair committee on an economic dispute between the same parties, about the same object, and on the same grounds;

3) if there is a file on a dispute between the same parties, about the same object, and on the same grounds, in process at a court, arbitration commission, arbitration tribunal, or fair committee;

4) if the suit is brought against enterprises, institutions, and organizations which, according to law, cannot be defendants in such a dispute.

The refusal to accept a statement of claim is made in an order which is sent to interested enterprises, institutions, organizations, their higher-ranking organs, and other state organs no later than 5 days after the petition is received.

The case materials are attached to the order refusing to accept the statement of claim which is sent to the petitioner.

The order refusing to accept the statement of claim may be reviewed on a supervision basis. If this order is set aside the statement of claim is considered to have been filed on the day it was originally sent to the state arbitration commission.

#### **Article 63. Return of the Statement of Claim**

The state arbitrator returns the statement of claim and attached documents without hearing:

1) if the statement of claim is signed by a person who does not have the right to sign it or a person whose official position is not indicated;

2) if the statement of claim does not give the names of the parties, structural units of associations, their mailing addresses, and the names of the credit institutions in which the accounts of the parties are located;

3) if the statement of claim does not indicate the facts on which the claim is based, the evidence that confirms the facts presented in the statement, and a substantiated calculation of the amount being sought or in dispute;

4) if the claimant has not presented proof of payment of the state fee in the established manner and amount, with the exception of economic disputes that arise during the conclusion of contract;

5) if the rules for consolidating statements of claim have been violated or if one statement of claim consolidates several claims against one or several defendants and consolidating the hearing of these claims would prevent clarification of the rights and mutual relations of the parties or significantly complicate or delay hearing of the dispute;

6) if the claimant has not presented proof that a copy of the statement of claim and attached documents were sent to the defendant;

7) if, when submitting the claim of a structural unit of an association, documents that certify its authority are not submitted;

8) if the claimant has not submitted proof that appropriate steps were taken to fulfill obligations for direct settlement of the dispute with the defendant by the established procedure;

9) if the claimant has not submitted proof of an appeal to the bank to collect the indebtedness from the defendant, where under the law it should be received through a bank;

10) if, before the order is issued opening the file, a statement that the dispute has been settled is received from the plaintiff.

The return of a statement of claim does not prevent its re-submission to state arbitration by the general procedure after removal of the deficiency.

**Article 64. Opening Cases Based on the Petitions of Enterprises, Institutions, Organizations, Their Higher-Ranking Organs, Other State Organs, and Procurators**

No later than 5 days after receiving a statement of claim the state arbiter issues an order opening the file to the interested enterprises, institutions, organizations, their higher-ranking organs, other state organs, and also the procurator (if the case is being opened on his petition). This order indicates acceptance of the statement of claim, assignment of the case for hearing at a session of the state arbitration commission, the time and place where it will be conducted, and necessary actions to prepare the case for hearing at the session. The order is delivered in compliance with the requirements of Article 83 of the present Rules.

The order is also sent to other enterprises, institutions, organizations, their higher-ranking organs, and other state organs in cases where documents, information, and findings will be required from them or their officials are being summoned to the state arbitration commission.

When the appearance of representative of the parties at the session of the state arbitration commission is recognized as not mandatory, this is indicated in the order.

**Article 65. Opening a Case at the Initiative of the State Arbitration Commission**

A state arbitration commission has the right to open a file on its own initiative where there is information that enterprises, institutions, organizations, and their higher-ranking organs have violated state plan and contract discipline and committed other violations of legality in economic activity.

Enterprises, institutions, organizations, and their higher-ranking organs send to the state arbitration commission, on its demand, additional materials necessary to open the file no later than 5 days after receiving the commission's request.

The order of a state arbitration commission opening a file on its own initiative is delivered in conformity with the requirements of Articles 64 and 83 of the present Rules. The order also indicates the information on the basis of which the file is being opened and the essential features of the violation.

**Article 66. The Actions of the State Arbitration Commission to Prepare Materials for Hearing a Case at a Session**

In order to ensure correct and timely hearing of an economic dispute the state arbiter, where necessary, carries out the following actions to prepare materials for hearing a case at a session:

- 1) decides the question of joining enterprises, institutions, organizations, and their higher-ranking organs who have not been named by the plaintiff to take part in the case as parties;
- 2) excludes from the defendants enterprises, institutions, organizations, and their higher-ranking organs to whom a proposal on direct settlement of the dispute was not sent and also those enterprises, institutions, and organizations which under the law cannot be defendants in such a dispute;
- 3) summons representatives of the parties (if the parties are located in the same populated point as the state arbitration commission) to clarify the circumstances of the case and show which additional materials can be submitted;
- 4) obligates the parties, other enterprises, institutions, and organizations, and their officials to carry out certain actions (verify calculations, inspect evidence at its place of location, and so on);
- 5) demands from enterprises, institutions, organizations, and organs that are more highly ranked than them, and also state organs, including those who are not parties, documents, information, and findings necessary to resolve the dispute, familiarizes himself with such materials right at enterprises, institutions, organizations, organs that are more highly ranked than them, and also at other state organs;
- 6) decides the question of assigning an expert examination;
- 7) conducts an examination and investigation of written and material evidence at its place of location;
- 8) decides the question of acknowledging the appearance of representatives of the parties at the session of the state arbitration commission to be non-obligatory in the cases envisioned by Part 2 of Article 70 of the present Rules;
- 9) decides the question of summoning officials to explain essential features of the dispute;
- 10) decides the question of participation in hearing of the dispute by representatives of public organizations and labor collectives of the parties to the case—enterprises, institutions, organizations, and their higher-ranking organs;

11) decides the question of hearing the dispute at the enterprise, institution, organization, or their higher-ranking organs;

12) performs other actions to ensure correct and timely resolution of the dispute.

## **Chapter X. The Hearing of Economic Disputes**

### **Article 67. Times for Hearing Economic Disputes**

Disputes should be heard by a state arbitration commission within no more than 1 month from the day that the statement of claim is received or the case is opened at the initiative of the state arbitration commission.

Disputes which arise during the performance of contracts and other grounds, if at least one of the parties is in the Far North, or in another locale equivalent to the regions of the Far North, are heard within a time of no more than 2 months.

In exceptional cases the chief state arbiter or deputy chief state arbiter has the right to extend the period for hearing disputes by the procedure determined by the USSR State Arbitration Commission.

### **Article 68. Procedure for Conducting a Session**

The procedure for conducting a session is determined by the state arbiter who presides at the session beginning from the idea that state arbitration should ensure a comprehensive, complete, and objective clarification of all the facts of the case, rigorous observance of the rights and obligations of the parties, identification of the causes of the violations of legality and state discipline and shortcomings in the economic activity of enterprises, institutions, organizations, and their higher-ranking organs, and also the indoctrination influence of the arbitration proceeding. The state arbiter gives the participants in the arbitration proceeding an explanation of their rights and obligations and assists them in exercising the rights that they possess.

In conformity with the procedure determined by the state arbiter, representatives of the plaintiff and defendant, experts, and other persons participating in the session are heard.

When hearing particularly complex economic disputes, the state arbiter has the right to declare a recess of not more than 3 days with later indication of this in the decision.

### **Article 69. Hearing an Economic Dispute Where There Has Been No Answer to the Statement of Claim or Response to Demand for Materials by the State Arbitration Commission**

Where the defendant does not submit an answer to the statement of claim and provide material demanded by the state arbitration commission, the dispute may be heard on the basis of material available in the file.

### **Article 70. Hearing an Economic Dispute Without Participation by Representatives of the Parties**

When representatives of the plaintiff or defendant or both parties fail to appear at a session of the state arbitration commission, the dispute may be heard in their absence if, in the opinion of the state arbiter, their failure to appear does not prevent a resolution of the dispute.

If the materials in the file permit resolution of the dispute in the absence of representatives of the parties, the state arbiter may, on petition by the parties or on his own initiative, recognize the appearance of their representatives at the session of the state arbitration commission to be non-mandatory, and he also has the right to resolve the dispute without summoning representatives of the parties.

### **Article 71. Hearing Economic Disputes at Enterprises, Institutions, Organizations, and Their Higher-Ranking Organs**

The state arbitration commission hears disputes of great public significance directly at the enterprises, institutions, organizations, and their higher-ranking organs.

In this case the managers of the enterprises, institutions, organizations, and their higher-ranking organs are obligated to assist the state arbitration commission in organizing the arbitration proceeding.

### **Article 72. Postponement of the Hearing of a Case**

The state arbitration commission has the right to postpone the hearing of a case, within the time limits established by Article 67 of the present Rules, where it is necessary to join another enterprise, institution, or organization in the case as a party, to demand additional evidence, to summon officials of enterprises, institutions, organizations, their higher-ranking organs, or other state organs, and where no answer to the statement of claim and no demanded materials are received, where representatives of the parties fail to appear and in other instances where the case cannot be heard at the particular session.

An order is issued postponing the hearing. This order indicates the time and place of the next hearing.

The order postponing the hearing of a case may decide the question of imposing the penalty envisioned in Point 6 of Part II of Article 79 of the present Rules.

#### **Article 73. Suspending a Case and Reinstating It**

The state arbitration commission suspends a case if:

- 1) it is impossible to hear the particular case before another related case is resolved by the judge or state arbitration commission or an appropriate issue is decided by competent organs;
- 2) the state arbitration commission assigns an expert examination;
- 3) the state arbitration commission sends materials to procuracy or internal affairs organs for investigation.

The state arbitration commission reinstitutes a case after the circumstances that led to its suspension are removed.

Orders are issued on suspension and reinstitution of a case.

The order suspending a case may be reviewed on a supervision basis.

#### **Article 74. Dismissal of a Case**

The state arbitration commission dismisses a case:

- 1) if the economic dispute is not subject to hearing at state arbitration organs;
- 2) if there is a decision of a court, arbitration commission, arbitration tribunal, or fair committee on the dispute between the same parties, about the same subject, and on the same grounds;
- 3) if the claimant has not taken steps to fulfill his duties toward direct settlement with the defendant and the possibility of such a settlement is gone;
- 4) if the suit was brought against enterprises, institutions, and organizations which, in conformity with the law, cannot be defendants in such a dispute;
- 5) if the enterprises, institutions, organizations, their higher-ranking organs, and other state organs which are parties have been liquidated.

If a case is dismissed, a dispute between the same parties, about the same subject, and on the same grounds is not allowed to be brought to the state arbitration commission a second time.

An order is issued on dismissal of the suit. This order may decide questions of distribution of arbitration costs between the parties, reimbursement of the state fee from the budget, and imposition of the penalties envisioned in Points 5-6 of Part II of Article 79 of the present Rules.

The order dismissing the case may be reviewed on a supervision basis.

#### **Article 75. Refusal to Hear a Suit**

The state arbitration commission refuses to hear a dispute:

- 1) if the statement of claim is signed by a person who does not have the right to sign it or by a person whose official position is not indicated;
- 2) if there is a case on file in a court, arbitration commission, arbitration tribunal, or fair committee involving an economic dispute between the same parties, about the same subject, and on the same grounds;
- 3) if the claimant has not taken steps to fulfill his obligations toward direct settlement of the dispute with the defendant and the possibility of such a settlement is gone;
- 4) if the claimant has not made a request to the bank to receive the indebtedness from the defendant, where according to law it should be received through the bank;
- 5) if the plaintiff without justification has not submitted materials demanded by the arbitration commission which are necessary to resolve the dispute or the representative of the plaintiff did not appear at the session of the arbitration commission after being summoned and his failure to appear obstructs a hearing of the dispute.

An order is issued on refusal to hear the suit. This order may decide questions of the distribution of arbitration costs between the parties, return of the state fee from the budget, and also imposition of the penalties envisioned in Points 5 and 6 of Part II of Article 79 of the present Rules.

The order on refusal to hear a suit can be reviewed on a supervision basis.

After the circumstance which provided grounds for refusal to hear the suit are removed, the plaintiff has the right to bring it to the state arbitration commission again following general procedures.

#### **Article 76. Reports of the State Arbitration Commission**

When during the hearing of an economic dispute the state arbitration commission has discovered violations of legality and state discipline and shortcomings in economic activity, it sends reports on these violations and shortcomings, in the manner established by the USSR State Arbitration Commission, to the enterprises, institutions, organizations, and higher-ranking organs

and officials with proposals on eliminating them, bringing guilty persons to accountability, and compensating for material loss they have caused.

Reports of a state arbitration commission should contain an analysis of the causes of failure to fulfill plan assignments and contract obligations, mismanagement, waste, spoilage, shortfalls, and other losses of output.

The managers of enterprises, institutions, organizations, and their higher-ranking organs, having received such a report, are obligated to notify the state arbitration commission of measure taken within 1 month after receiving the report.

In necessary cases reports on violations of legality and state discipline and shortcomings in economic activity which are found are sent to procuracy and internal affairs organs and other competent organs for review of the question of bringing the guilty persons to accountability.

## **Chapter XI. Decisions and Orders**

### **Article 77. Adoption of the Decision**

When an economic dispute is being decided on the merits (satisfaction of the claim, complete or partial denial of the claim), the state arbitration commission adopts a decision.

The decision on the dispute is adopted by the state arbiter and representatives of the parties taking part in the case based on the results of discussion of all the circumstances of the case at the session of the state arbitration commission. The state arbiter promotes agreement between the parties here.

In cases where agreement between the parties is not reached or the agreement of the parties does not fit the requirements of the law or the materials of the case, or where the dispute is heard without participation by representatives of both parties or one of them, a decision is adopted by the state arbiter; when the dispute is heard by three state arbiters, it is adopted by a majority of votes of the arbiters.

The decision is set forth in written form and signed by the state arbiter who presides at the session, and if the dispute is heard by three state arbiters it is signed by all the arbiters participating in the session. A state arbiter who does not agree with the decision may present his own special written opinion, which is included in the file.

### **Article 78. Legality and Substantiation of the Decision**

The decision of the state arbitration commission should be lawful and substantiated.

### **Article 79. Rights of the State Arbitration Commission in Adopting a Decision**

The state arbitration commission finds a contract which conflicts with the law, or state plans and assignments to be completely invalid or invalid in a certain part, and it also refuses to grant the demands of the parties if these demands are based on an enactment of a state administrative organ which conflicts with the law.

When adopting its decision on an economic dispute, the state arbitration has the right:

- 1) to go beyond the claims of the suit if this is necessary to protect general state interests and the rights and legally defended interests of enterprises, institutions, and organizations;
- 2) to charge a party who has flagrantly breached his obligations a fee (fine, penalty) in an increased amount in the instances and within the limits established by USSR law, directing this part of the amount collected to USSR budget income;
- 3) direct the fee (fine, penalty) charged fully or partially to USSR budget income if the plaintiff has not submitted a demand for sanctions or has allowed violations of the law which do not reduce the accountability of the defendant, and also when the case was instituted on application of the procurator or at the initiative of a state arbitration commission;
- 4) in exceptional cases, to reduce the amount of the fee (fine, penalty) subject to collection from a party who has breached obligations;
- 5) to impose a fine in the amount established by USSR law and to be paid to USSR budget income on a party who has allowed violations of time schedules for presenting and reviewing claims;
- 6) to charge a party at fault a fine (to be paid to USSR budget income) for failure to submit an answer to a statement of claim or materials demanded by the state arbitration commission on time, and also for evading performance of actions assigned to the party by the state arbitration commission, in an amount up to 100 rubles;
- 7) to postpone execution of the decision or order that the decision be executed.

### **Article 80. The Content of the Decision**

The state arbitration commission's decision consists of four parts: the title, descriptive part, reasoning of the court, and disposition, and:

- 1) the title indicates the name of the state arbitration organ, the number of the case, the date it is heard, the names of the parties, the value of the suit, the surnames of the state arbiter (arbiters), representatives of the

parties, and other persons taking part in hearing the case, and their titles. When the economic dispute is heard at an enterprise, institution, organization, or their higher-ranking organs, this is also indicated in the title of the decision;

2) the descriptive part should contain a short statement of the demands of the suit, the answer to the statement of claim, the statements, explanations, and petitions of the representatives of the parties and other persons participating in hearing the dispute, a description of the actions taken by the state arbitration commission (examination and investigation of evidence at its place of location, familiarization with materials right at enterprises, institutions, organizations, their higher-ranking organs, and also other state organs);

3) the reasoning of the court indicates the facts of the case as established by the state arbitration commissions; the causes of the dispute; the evidence on whose basis the decision is adopted; the content of the agreement between the parties, if it was achieved; the reasons why the arbitration commission denied the petitions and evidence of the parties and their suggestions on conditions of the contract or agreement of the parties; the rules of law by which the state arbitration commission was guided in adopting its decision;

4) the disposition should contain the conclusion to grant the claim or deny it fully or in part. The conclusion of the state arbitration commission should not depend on the occurrence or non-occurrence of any circumstances (conditional decision).

When granting the suit in the disposition of the decision the following are indicated:

- name of the party in whose favor the dispute is decided, and of the party from whom monetary sums were collected or who is obligated to carry out certain actions, the time for performance of these actions, and the time for payment of monetary sums where the decision is postponed or ordered to be executed;
- the amount of the sums subject to collection (primary indebtedness for physical assets, work performed, and services rendered, fees, fines, penalties, and losses, as well as the fines envisioned in Points 5 and 6 of Part II of Article 79 of the present Rules);
- the name of the account from which the monetary sums are to be collected;
- an exact description of the property subject to surrender and its location (in a dispute on surrender of property);
- the conditions under which the parties are obligated to conclude a contract, with a reference to the draft contract submitted (in a dispute to compel to conclude a contract);

—a conclusion on each disputed point of the contract (in a dispute that arises during conclusion of a contract or modification of its conditions).

The disposition of the decision indicates that the contract is found invalid in those cases envisioned in Part I of Article 79 of the present Rules and also gives the distribution of arbitration costs between the parties.

Where several plaintiffs and defendants take part in a case, the decision indicates how the dispute was resolved in relation to each one of them.

#### **Article 81. Decision on an Original Suit and a Counter Claim**

When hearing an original suit and counter claim the decision indicates the results of hearing each of the claims.

#### **Article 82. Announcement of the Decision**

The decision adopted is announced by the state arbiter at the session after the hearing of the case is completed. The state arbiter has the right to announce only the disposition part of the decision.

#### **Article 83. Issuing an Order and Its Content**

If an economic dispute is not decided on the merits (hearing of the case is postponed, suspension, dismissal of the case, refusal to hear the case, and so on), the state arbitration commission issues an order.

The order of the state arbitration commission should contain:

- 1) the name of the state arbitration organ, the number of the case and date of issuing the order, the names of the parties, the value of the suit, the demand of the plaintiff, the surnames of the state arbiter (arbiters), representatives of the parties, and other persons participating in hearing the matter (indicating their titles);
- 2) a short statement of the essential facts of the dispute or content of the issue on which the order is being issued;
- 3) the reasons for issuing the order, with legal references;
- 4) the conclusion on the issue reviewed;
- 5) the actions which must be taken by the parties, other enterprises, institutions, organizations, and their officials in the time periods appointed by the state arbitration commission.

#### **Article 84. Distribution of Decisions and Orders**

Decision and orders are distributed to interested enterprises, institutions, organizations, their higher-ranking organs, other state organs, and also the procurator (in cases instituted by application of the procurator) not later than 5 days after they are issued.

#### **Article 85. Review of the Decision and Order by the State Arbiter**

The state arbiter has the right to review the decision with respect to charging the penalties envisioned in Points 5 and 6 of Part 2 of Article 79 of the present Rules.

In the event of receiving new materials the state arbiter has the right to review an order (except for orders refusing to accept a statement of claim, dismissing a case, or refusing to hear a case).

A request for review of the decision and order can be submitted by a party within 1 month after adoption of the decision or issuing of the order.

An order is issued based on the results of reviewing the decision and order; it may be reviewed on a supervision basis.

#### **Article 86. Correction and Clarification of a Decision**

On application by a party submitted no later than 1 month after adoption of the decision or his own initiative, the state arbiter has the right to correct misprints and mathematical mistakes in the decision that do not involve the substance of the decision, and also to resolve the additional question of distribution of arbitration costs if this question was left unresolved by the state arbitration commission.

In cases where the decision is unclear the state arbiter, on application by a party, has a right to clarify the decision, without changing its meaning.

An order is issued on correction of misprints and mathematical mistakes, and also on clarification of a decision.

### **Chapter XII. Review of State Arbitration Decisions on a Supervision Basis**

#### **Article 87. Persons Who Have the Right to Raise the Question of Reviewing a Decision**

The decision of a state arbitration commission can be reviewed on a supervision basis on the application of a party or its higher-ranking organ, on a petition by a ministry, state committee, or department, on a procurator's protest, or on the initiative of the state arbitration commission.

#### **Article 88. Persons Who Have the Right to Review a Decision**

The review of a decision is done by the chief state arbiter or deputy state arbiter of the arbitration commission which adopted the decision and also of the higher-ranking arbitration commission.

If the economic dispute was resolved by the deputy state arbiter or under his chairmanship, review of the decision is done by the chief state arbiter of the arbitration commission that adopted the decision. If the dispute was resolved by the chief state arbiter or under his chairmanship, the review of the decision is done by the state arbiter or the deputy state arbiter of the higher-ranking arbitration commission.

Review of a decision adopted on a supervision basis by the chief state arbiter or the deputy chief state arbiter of an autonomous republic, kray, oblast, city, autonomous oblast, or autonomous okrug is done by the chief state arbiter or deputy state arbiter of the Union republic.

Review of a decision adopted on a supervision basis by the chief state arbiter or the deputy state arbiter of a Union republic in a dispute resolved by the state arbitration commission of the Union republic is done by the USSR State Arbitration Commission. The USSR State Arbitration Commission on petition by a ministry, state committee, or department has the right to review a decision adopted on a supervision basis by the chief state arbiter or deputy state arbiter of a Union republic in a dispute heard by the state arbitration commission of an autonomous republic, kray, oblast, city, autonomous oblast, or autonomous okrug.

Review on a supervision basis at the USSR State Arbitration Commission of a decision on petition from a USSR ministry, state committee, or department or on protest by the USSR Procurator General, of a decision adopted by the chief state arbiter of a Union republic, of a decision on an economic dispute of great public significance (by indication of the Chief State Arbiter of the USSR), and also of a decision adopted at the USSR State Arbitration Commission, is done en banc by a body consisting of the Chief State Arbiter of the USSR or his deputy (presiding) and two state arbiters of the USSR State Arbitration Commission. In other cases the review of the decision is done by the Chief State Arbiter of the USSR or his deputy.

The USSR State Arbitration Commission and the state arbitration commission of a Union republic have the right to review any decision of a lower-ranking state arbitration commission on their own initiative.

#### **Article 89. The Form and Content of the Request and Petition for Review of a Decision**

The request and petition for review of a decision are submitted in written form and must contain the name of the state arbitration organ that adopted the decision, the



number of the case, the date that the decision was adopted, the names of the parties, the value of the suit, the demand on the claimant, and also the grounds on which the question of reviewing the decision is based, with references to rules of law and the materials of the case.

The request for review of a decision is signed by the manager or deputy manager of an enterprise, institution, organization, their higher-ranking organ, other state organ, or structural unit of an association.

The petition for review of the decision is signed by the manager or deputy manager of the ministry, state committee, or department submitting the petition.

**Article 90. Procedure for Submitting a Request or Petition for Review of a Decision. Time Limit on Reviewing a Decision**

The request for review of a decision is submitted:

- to the chief state arbiter of the arbitration commission that adopted the decision;
- to the chief state arbiter of the higher-ranking arbitration commission through the state arbitration commission that adopted the decision. In this case the request together with the file is sent to the higher-ranking state arbitration commission within 5 days after the request is received.

The claimant is obligated to send a copy of the request to the other party.

Attached to the request are documents that confirm that a copy of the request was sent to the other party (postal receipt, value letter register, extract from the postal dispatch register, and so on) and payment of the state fee.

Submission of a request for review of a decision adopted on a supervision basis by the chief state arbiter or deputy chief state arbiter of a Union or autonomous republic, kray, oblast, city, autonomous oblast or autonomous okrug is not allowed if the amount in dispute is less than 500 rubles.

A ministry, state committee, or department has the right to submit a petition for review of a decision on a dispute involving an enterprise, institution, or organization included in the system of this ministry, state committee, or department (except for decisions adopted in cases envisioned by Part 2 or Article 9 of the present Rules). The petition is submitted directly to the USSR State Arbitration Commission. A copy of the petition is sent to the other party (and documents confirming this are submitted to the USSR State Arbitration Commission). A file which is demanded by the USSR State Arbitration Commission from the appropriate state arbitration commission is sent to them within 5 days after the demand is received.

The decision of a state arbitration commission can be reviewed on a supervision basis no later than 1 year from the date that the decision was adopted.

**Article 91. Time for Submitting a Request for Review of a Decision**

A request for review of a decision may be submitted no later than 1 month after this decision was adopted.

The submission of a request for review of a decision does not suspend its execution.

**Article 92. Answer to a Request for Review of a Decision**

A party who has received a copy of a request for review of a decision that has been submitted to a state arbitration commission must send an answer to the request to the state arbitration organ to which it was submitted no later than 5 days after receiving the copy of the request.

The answer is signed by the manager or deputy manager of an enterprise, institution, organization, their higher-ranking organ, other state organ, or structural unit of an association.

**Article 93. Return of a Request for Review of a Decision**

A request for review of a decision is not accepted for hearing and is returned by the state arbitration commission which adopted the decision:

- 1) if the request is signed by a person who does not have the right to sign it or by a person whose official position is not indicated;
- 2) if proof of payment of the state fee by the established procedure and in the established amount or proof of sending a copy of the request to the parties is not attached to the request;
- 3) if the request is submitted in violation of the conditions envisioned by Part 4 of Article 90 of the present Rules.
- 4) if the request is submitted after expiration of the time established for submitting it, without a petition to reinstate this time;
- 5) if the request is recalled by the claimant before review on supervision basis begins.

The chief state arbiter or deputy chief state arbiter of the arbitration commission that has the power to review the merits of the request may reinstate the time for submission of a request if he finds that it was missed for a justifiable reason.

**Article 94. Review of a Decision in the Absence of an Answer**

A decision may be reviewed in the absence of an answer from another party to the request for review of the decision.

**Article 95. Time Period for Review of a Decision**

A decision is reviewed not later than one month after the request or petition is received at the state arbitration commission that has the power to review the decision.

**Article 96. Powers of the State Arbitration Commission in Reviewing a Decision**

Based on the results of review of a decision the state arbitration commission has the right:

- to leave the decision unchanged;
- to modify the decision;
- to set aside the decision and adopt a new decision, to remand the case for a new hearing, to dismiss the case, or to refuse to hear the case.

The decision of the state arbitration commission is reviewed in full, regardless of the arguments presented in the request or petition.

In reviewing the decision the chief state arbiter or deputy chief state arbiter has the rights granted to a state arbitration commission in reviewing an economic dispute.

In addition, the chief state arbiter or deputy chief state arbiter of the arbitration commission at which the decision is being reviewed has the right to suspend its execution until completion of the review on a supervision basis.

**Article 97. Grounds for Modifying or Setting Aside a Decision**

A decision of a state arbitration commission is subject to modification or setting aside if it conflicts with the law or does not correspond to the facts and materials of the case.

**Article 98. Adoption of a Decree on Review of a Decision**

A reasoned decree is adopted based on the results of review of the decision.

**Article 99. The Content of the Decree on Review of a Decision**

The decree on review of a decision must contain:

1) the name of the state arbitration organ at which the decision is reviewed, the number of the case and date of adoption of the decree, the names of the parties, the name of the enterprise, institution, organization, or organ on whose request or petition the decision is being reviewed, and the surnames of the officials who adopted the decree and the persons who presented testimony at the state arbitration commission (with an indication of their titles);

2) the name of the state arbitration commission at which the decision was adopted, the number of the case, the date of adoption of the decision, and the surnames of the state arbiter (arbiters);

3) a short statement of the essential facts of the economic dispute and of the decision adopted;

4) the grounds on which the question of review of the decision was based, and arguments presented in the answer to the request;

5) the reasoning by which the decision is found to be subject to affirmation, modification, or setting aside, with references to the law and the materials of the case;

6) conclusions based on results of reviewing the request or petition for review of the decision;

7) actions which must be taken by the parties when the decision is set aside and the case is remanded for a new hearing.

**Article 100. The Mandatory Nature of Directives Contained in the Decree on Review of the Decision**

Directives contained in the decree on review of a decision are mandatory for the state arbitration commission which rehears the economic dispute.

The decision adopted on rehearing of the dispute is sent to the parties and to the state arbitration organ which transferred the case for rehearing.

**Article 101. Distribution of Decrees on Review of Decisions**

Decrees on review of decisions are sent no later than 5 days after their issuance to interested enterprises, institutions, organizations, their higher-ranking organs, other state state organs, and the state arbitration commission which adopted the decision.

**Article 102. Review of an Order on a Supervision Basis**

The order of the state arbitration commission can be reviewed on a supervision basis in cases envisioned by the present Rules.

### **Chapter XIII. Review of Decisions of a State Arbitration Commission Based on Newly Discovered Circumstances**

#### **Article 103. Grounds for Review**

A state arbitration commission may review a decision it has adopted on the basis of newly discovered circumstances which are significant to the case and were not and could not have been known to the claimant. Such circumstances may be, among others:

- 1) intentionally false conclusions of an expert or falsity of documents or physical evidence, established by a court verdict that has gone into legal effect, and leading to the adoption of an illegal or unsound decision;
- 2) criminal actions by a state arbiter or representatives and officials of the parties and other enterprises, institutions, and organizations, established by a court verdict that has gone into legal effect, and committed during hearing of the economic dispute;
- 3) the setting aside of a state arbitration decision, a court decision, verdict, order, or decree, or a decree of another organ which served as the basis for issuing the given decision.

#### **Article 104. Procedures for Submitting an Application**

The application to review a decision based on newly discovered circumstances can be submitted to the state arbitration organ that adopted the decision not later than 3 months after the circumstances serving as the basis for review are established.

The claimant must send copies of the statement and documents attached to it to the parties and submit proof of its sending to the state arbitration organ to which the request is submitted.

When a request is submitted after expiration of the established time or where proof of sending copies of the statement and attached documents to the parties is not submitted, the request is not accepted for hearing and is returned to the claimant.

#### **Article 105. Review of the Decision**

The review of the state arbitration decision based on newly discovered circumstances is done by the arbitration commission that adopted the decision, while the review of a decision adopted on a supervision basis is done by the officials who adopted this decision.

Based on the results of the review of the decision there is issued:

- 1) a decision or decree where the decision is modified or set aside;

- 2) an order when the decision is affirmed.

Decision, decrees, and orders are sent to interested enterprises, institutions, organizations, their higher-ranking organs, and other state organs within 5 days after their issuance.

When a request for review of a decision based on newly discovered circumstances is received, the state arbiter (the chief state arbiter or his deputy with respect to decisions adopted on a supervision basis) has the right to suspend execution of the decision until completion of review of the decision.

Decisions, decrees, and orders adopted based on the results of review of a decision based on newly discovered circumstances can be reviewed on a supervision basis in conformity with the principles of Chapter XII of the present Rules.

### **Chapter XIV. Execution of Decisions**

#### **Article 106. The Executory Document**

Execution of the state arbitration commission's decision is done in conformity with the law of the USSR and the Union republics on the basis of an order issued by the state arbitration commission. This is the executory document.

#### **Article 107. Dissemination of Orders of the State Arbitration Commission for Execution**

Orders to collect money are issued to execution creditors or sent to them by registered or value letter simultaneously with the decision, and where amounts are being collected for state budget income they are sent to the local financial organs and executed through credit institutions in the established manner. Other orders are executed by agents of the court.

In cases where the original suit and counter claim are fully or partially granted orders to collect are sent separately for each suit.

The order to collect monetary sums may be sent by the state arbitration commission directly to the credit institution at the location of the debtor.

The form of the order sent by the state arbitration commission directly to the credit institution is ratified by the USSR State Arbitration Commission in agreement with the USSR State Bank.

#### **Article 108. Content of the Order**

The order of the state arbitration commission should indicate:

1) the name of the state arbitration organ that issued the order, the number of the case on which the order was issued, the date of adoption of the decision, the date of issuance of the order, and its effective period;

2) the disposition of the decision.

If in adopting a decision a suspension of execution or order to execute is being instituted, the order indicates the time from which it runs.

An order subject to execution by an agent of the court or sent to the financial organ also indicates the address of the debtor.

The order is signed by the state arbiter and is certified by the seal of the state arbitration organ.

#### **Article 109. Time for Presenting an Order for Execution**

An order issued to the judgment creditor may be presented for execution no later than 3 months after adoption of the decision or expiration of the established time when suspending or ordering execution of the decision or after issuance of an order reinstating the period missed for presentation of an order for execution. Time during which execution of the order was suspended is not counted in this time period.

Where it is impossible for a credit institution or agent of the court to execute the order and for this reason it is returned without execution, a new 3-month period for presentation of the order for execution is counted from the date of its return.

The time for execution of a decision is tolled by presentation of the order for execution.

#### **Article 110. Issuing a Duplicate Order**

If the order is lost the state arbitration commission may issue a duplicate if the judgment creditor submits a request for this before expiration of the period established for presentation of the order for execution. An order is issued on issuing a duplicate order.

Attached to the request for issuing a duplicate order should be:

- an affidavit of the credit institution, agent of the court, or communications organ stating that the order was lost;
- where the order was lost by the judgment creditor, an affidavit of the judgment creditor signed by the manager or deputy manager and chief (senior) accountant of the enterprise, institution, organization, their higher-ranking organ, or other state organ stating that the order was lost and was not presented for execution.

#### **Article 111. Reinstatement of Missed Times for Execution of a Decision**

On request of the judgment creditor the state arbitration commission may reinstate missed times for execution of a decision if it finds the reasons for missing them was justifiable.

If when a state arbitration commission receives a request to issue a duplicate order it is established that the remaining effective time of the order is inadequate to present it for execution, the state arbitration commission has the right to reinstate this time.

An order is issued on reinstating the time or refusing to reinstate it. The order refusing to reinstate the time may be reviewed on a supervision basis.

#### **Article 112. Suspension of Execution or Order to Execute a Decision, Modification of the Method and Procedures for Execution of a Decision**

On request of a party or on its own initiative the state arbitration commission has the right, before expiration of the period established for presentation of the order for execution, to suspend execution of the decision, order the decision to be executed, or change the manner and procedures for its execution.

Where execution of the decision is being suspended or ordered, the state arbitration commission can take steps to secure the suit in conformity with Chapter V of the present Rules.

An order is issued on suspension of execution of the decision, ordering its execution, or change in the manner and procedures of its execution. This order can be reviewed on a supervision basis. In necessary cases the order is sent to the credit institution at the location of the debtor.

#### **Article 113. Restitution of Execution of a Decision**

If a decision that has been executed is modified or set aside and a new decision is adopted that fully or partially denies the claim, or the case is dismissed, or the commission refuses to hear the suit, everything that was collected by the judgment creditor under the decision that was modified or set aside in appropriate parts is returned to the debtor.

The order to return money and property collected or its value is issued by the state arbitration commission on submission by an interested party of an affidavit signed by the manager or deputy manager and chief (senior) accountant stating that the amount collected under a decision adopted earlier has been taken from the account of the given enterprise, institution, organization, or their higher-ranking organ by the credit institution or the property has been confiscated by an agent of the court.

**Article 114. Dismissal of Collection Under a State Arbitration Decision**

If a decision which has not been executed is modified or set aside and a new decision is adopted which partially or fully denies the suit, the case is dismissed, or the commission refuses to hear the suit, the state arbitration commission issues an order fully or partially stopping execution based on the decision that was modified or set aside in appropriate part.

**Chapter XV. Review of Requests of State Enterprises (Associations, Organizations—Hereafter "Enterprises") to Find Enactments of Their Higher-Ranking Organs Fully or Partially Invalid**

**Article 115. Jurisdiction Over Requests to Find Enactments of Higher-Ranking Organs of Enterprises Invalid**

Requests by enterprises to find that enactments that affect the rights and legally protected interests of these enterprises and are issued by their higher-ranking organs outside the competence of these organs or in violation of the requirement of the law are heard by state arbitration organs at the place of location of the higher-ranking organs of the enterprises.

In this case the request to find enactments of organs of USSR and republic (Union or autonomous republic) subordination invalid are reviewed, respectively, by the USSR State Arbitration Commission, or the state arbitration commission of the Union or autonomous republic; requests to find enactments of locally subordinate organs invalid are heard by the state arbitration commission of the kray, oblast, city, autonomous oblast, or autonomous okrug.

A request to find an enactment of a higher-ranking organ of an enterprise which was issued in connection with an enactment of an even higher-ranking organ invalid is reviewed by the state arbitration organ of the same level as the organ that issued the original enactment.

**Article 116. Request to Find an Enactment of the Higher-Ranking Organ of an Enterprise Invalid**

The request to find an enactment of a higher-ranking organ invalid is submitted to the state arbitration organ in written form and signed by the enterprise manager.

When the request is submitted to the state arbitration organ the enterprise sends a copy of this request to the higher-ranking organ that issued the enactment in dispute.

The request must indicate specifically what requirement of the law is violated by the enactment under dispute or specifically what part of the disputed enactment is outside the competence of the organ that issued it.

A copy of the disputed enactment or a certified extract from it and other necessary documents are attached to the request.

**Article 117. Review of the Request to Find an Enactment of an Higher-Ranking Organ of an Enterprise Invalid**

An enterprise's request to find an enactment of its higher-ranking organ invalid is reviewed by the chief state arbiter or deputy chief state arbiter of the appropriate arbitration commission within 15 days after the request is received.

**Article 118. Adoption of a Decree Based on Results of Review of the Request to Find an Enactment of an Higher-Ranking Organ of an Enterprise Invalid**

Based on the results of review of the request to find an enactment of a higher-ranking organ of an enterprise invalid the chief state arbiter or deputy chief state arbiter adopts a reasoned decree which goes into force immediately upon adoption.

Within 3 days after adoption the decree is sent to the requesting enterprise and to the higher-ranking organ that issued the disputed enactment.

**Article 119. Appealing a Decree Adopted Based on Results of Reviewing a Request to Find an Enactment of a Higher-Ranking Organ of an Enterprise Invalid**

Within one month the decision adopted based on the results of reviewing a request to find an enactment of a higher-ranking organ of an enterprise invalid may be appealed to a higher-ranking state arbitration organ through the arbitration commission that adopted the decree. That commission is obligated to send the appeal together with its materials to the higher-ranking state arbitration organ within 3 days after receipt.

Attached to the appeal signed, respectively, by the manager of the enterprise or its higher-ranking organ, are a copy of the disputed enactment or a certified extract from it, other necessary materials, and also the decision of the state arbitration organ that is being appealed.

At the same time that the appeal is submitted to the state arbitration organ a copy of it is sent to the other party.

The state arbitration organ that is empowered to hear the appeal on its merits is obligated to adopt a reasoned decree on it within 15 days after the appeal is received.

**Article 120. Adoption of a Decree on the Appeal of a Decision Adopted Based on the Results of Reviewing a Request to Find an Enactment of a Higher-Ranking Organ of an Enterprise Invalid**

The decree of the higher-ranking state arbitration organ on the appeal of a decision of a lower-ranking organ is final and goes into force immediately upon adoption. No later than

the day following adoption of the decree it is sent to the enterprise and its higher-ranking organ, as well as to the arbitration commission whose decision was appealed.

The USSR State Arbitration Commission reviews an appeal of the decision adopted on a request to find an

enactment of a USSR ministry, state committee, or department invalid en banc, with a panel consisting of the Chief State Arbiter of the USSR or his deputy (presiding) and two state arbiters of the USSR State Arbitration Commission. In other cases review of appeals is done personally by the Chief State Arbiter of the USSR or his deputy.

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